



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,203	04/01/2004	Robert Lee Thompson	T0450.70038US00	7503
23628 7590 08/14/2008 WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206				
EXAMINER				
BLACKWELL, JAMES H				
ART UNIT		PAPER NUMBER		
2176				
MAIL DATE		DELIVERY MODE		
08/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/816,203

Applicant(s)

THOMPSON ET AL.

Examiner

James H. Blackwell

Art Unit

2176

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Doug Hutton/
Supervisory Patent Examiner
Technology Center 2100

Continuation of 11, does NOT place the application in condition for allowance because:

The examiner would first like to note that, contrary to Applicant's remarks and as expressly indicated in the Interview Summary dated 06/06/2008, no agreement was reached with respect to the claims during the Interview.

Applicant argues that Olbricht fails to disclose "in response to selection of the button, retrieving at least one picture that includes content previously associated with the electronic document" (as recited in Claim 1) because the image that is streamed from the scanner to the web browser is not an image that was previously associated with the web page. See Response -- Page 2, third and fourth paragraphs.

The examiner disagrees.

When the preview image is presented to the user via the browser, that preview image is "associated with the electronic document."

Subsequently, when the user selects the "Scan" button, the document is scanned and the scanned image is presented to the user via the browser.

Accordingly, when the user selects the "Scan" button (i.e., "in response to selection of the button"), the scanned image is presented to the user via the browser (i.e., "retrieving at least one picture"), wherein, before the user selects the "Scan" button, a preview image of said scanned image is presented to the user within the same web page from which the user selects the "Scan" button (i.e., "that includes content previously associated with the electronic document").

Applicant argues (in support of Claims 49, 71 and 93) that Olbricht fails to disclose or suggest that an "association" between the scanned image and the web page is created because the scanned image is only temporarily displayed in the web page until the next image is scanned. That is, Applicant argues, merely displaying an image on a web page is not "associating" the image with the web page. See Response -- Page 3, last paragraph through Page 4, second paragraph.

The examiner disagrees.

The examiner has reviewed the Specification of the present invention in search of a particular definition of the recited term "associating" and could not find one. If the examiner has overlooked a particular definition of the recited term "associating," then Applicant should point out the particular definition by page and line number.

The "plain and ordinary" meaning of the term "associate" includes: 1) to join as a partner, friend or companion; 2) to keep company with; 3) to join or connect together; 4) to bring together or into relationship in any of various intangible ways; 5) to come or be together as partners; friends or companions; and 6) to combine or join with other parts.

In Olbricht, when the scanned image is displayed in the web page, the scanned image is, within the context of at least one of the above definitions, "associated" with the web page.

Applicant argues (in support of Claim 115) that Olbricht fails to disclose or suggest "in response to selection of the button, calling the data capture application so that the data capture application provides a live view from the data capture device on the display" Olbricht is silent as to what happens when the "Preview" button is selected.

The examiner disagrees.

The examiner notes that this argument was copied and pasted from Page 4 of the Response dated 01/04/2008. The examiner also notes that such arguments do not forward prosecution of the present application. Finally, the examiner notes that this argument is addressed in the Final Rejection dated 04/28/2008 (see Page 26).